

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine
the Commission's post-2005 Energy
Efficiency Policies, Programs, Evaluation,
Measurement and Verification, and Related
Issues.

Rulemaking 06-04-010
(Filed April 13, 2006)

**RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES, THE UTILITY
REFORM NETWORK AND THE COMMUNITY ENVIRONMENTAL COUNCIL TO
PETITION FOR MODIFICATION OF DECISIONS 07-09-043 AND 08-01-042 BY
PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON
COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND
SOUTHERN CALIFORNIA GAS COMPANY**

Thomas Roberts, Regulatory Analyst
for the Division of Ratepayer Advocates
CALIFORNIA PUBLIC UTILITIES
COMMISSION
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-5278
Fax: (415) 703-4432
Email: tcr@cpuc.ca.gov

Cynthia K. Mitchell
ENERGY ECONOMIC INC
530 Colgate Court
Reno, Nevada 89503
Phone: (775) 324-5300
Fax: (775) 324-0000
Email: ckmitchell@sbcglobal.net

Diana L. Lee, Attorney
for Division of Ratepayer Advocates
CALIFORNIA PUBLIC UTILITIES
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-4342
Fax: (415) 703-4432
Email: dil@cpuc.ca.gov

Robert Finkelstein, Legal Director
THE UTILITY REFORM NETWORK
711 Van Ness Avenue, Suite 350
San Francisco, CA 94102
Phone: (415) 929-8876
Fax: (415) 929-1132
E-mail: bfinkelstein@turn.org

Tamlyn Hunt
The Community Environmental
26 W. Anapamu, 2nd Floor
(805) 963-0583, ext. 122

September 15, 2008

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	BACKGROUND	3
	A. DECISION 07-09-043, AS MODIFIED BY DECISION 08-01-042 ALIGNED SHAREHOLDER AND RATEPAYER INTERESTS BY DIRECTING THE INTERIM CLAIMS BE CALCULATED USING THE BEST <i>EX ANTE</i> DATA AVAILABLE, INCLUDING 2008 AND 2009 DATABASE FOR ENERGY EFFICIENCY RESOURCE (DEER) UPDATES.	3
	B. DECISION 07-09-043 RECOGNIZED THE POSSIBILITY OF DELAY IN THE CALCULATION OF INTERIM INCENTIVE CLAIMS.	6
	C. THE EVALUATION, MEASUREMENT AND VERIFICATION PROCESS HAS ENCOUNTERED DELAYS INCLUDING SLOW RESPONSES TO DATA REQUESTS.	7
	D. THE SECOND PFM	8
III.	DISCUSSION	9
	A. THE COMMISSION SHOULD REJECT THE SECOND PFM BECAUSE IT FAILS TO COMPLY WITH RULE 16.4’S REQUIREMENTS THAT FACTUAL MATTERS BE SUPPORTED BY CITATIONS TO THE RECORD AND THAT NEW FACTS BE SUPPORTED BY AN APPROPRIATE DECLARATION OR AFFIDAVIT.	9
	1. The interim incentive claims for \$152 million are unverified and inadequately supported.	10
	2. “During the 2006-2007 timeframe the customers of the California investor-owned utilities saved over 5.5 billion kWh and 75.8 therms.”	11
	3. “Because the delay is through no fault of the utilities, they should be authorized to collect the incentives they have earned....”	11
	4. “A delay in the ability to record earnings from outstanding performance towards Commission goals, particularly on the very first claim following adoption of the incentive mechanism, undermines the ability of the utilities to treat energy efficiency as a regular part of their business from both the perspective of the utility and the business community, and does not bode well for the future.”	12
	B. CALCULATING THE INTERIM CLAIMS USING THE 2008 DEER UPDATED DATA SUBSTANTIALLY REDUCES THE CLAIMS; IN FACT THERE IS A REASONABLE POSSIBILITY THAT THE ADJUSTED INTERIM CLAIMS MAY BE ZERO.	17
	C. GRANTING THE SECOND PFM WOULD INCREASE THE RISK THAT EARNINGS AWARDS WILL EXCEED THE APPROPRIATE AMOUNTS BASED ON ACTUAL DEMONSTRATED SAVINGS.	20
	D. GRANTING THE RELIEF REQUESTED IN THE SECOND PFM WOULD REWARD UNREASONABLE PLANNING ASSUMPTIONS AND CLAIMS TO WALL STREET.	23

1. PG&E and SCE have made optimistic statements about the shareholder incentive mechanism that appear to assume that the Commission will grant the relief requested in the Second PFM.	24
a) SCE (EIX).....	25
b) PG&E (PCG)	26
c) Sempra (SRE)	29
E. GRANTING THE RELIEF REQUESTED IN THE PFM IS NOT NECESSARY TO ACHIEVE SUPPLY SIDE EQUIVALENCE.	29
F. GRANTING THE RELIEF REQUESTED IN THE SECOND PFM WOULD VIOLATE LONG-STANDING POLICY RULES.	30
1. Granting the relief requested in the Second PFM runs counter to long-standing PUC policy regarding <i>ex post</i> verification.....	30
2. Granting the relief requested in the second PFM would reward inaccuracy and inflation of <i>ex ante</i> data.	32
3. The relief requested in the Second PFM should be considered in the context of the Utilities’ requests in other proceedings.	33
G. PERMITTING PARTIES TO RAISE ISSUES RELATED TO VERIFICATION AND EVALUATION REPORTS TO THE COMMISSION, EVEN IN LIMITED CASES, WOULD UNDERMINE THE PROCESS ESTABLISHED IN D.07-09-043.	33
H. THE COMMISSION SHOULD TAKE THIS OPPORTUNITY TO DISCOURAGE FUTURE UTILITY REQUESTS TO DECONSTRUCT THE EXISTING SHAREHOLDER INCENTIVE MECHANISM.	34
IV. CONCLUSION	35

CERTIFICATE OF SERVICE

TABLE OF AUTHORITIES

CPUC DECISIONS

D.08-01-042.....	
D.07-12-049.....	
D.07-11-026.....	
D.07-09-043.....	
D.07-09-032.....	
D.05-11-011.....	
D.05-04-051.....	

RULE

16.4	
16.4(b).....	

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine
the Commission's post-2005 Energy
Efficiency Policies, Programs, Evaluation,
Measurement and Verification, and Related
Issues.

Rulemaking 06-04-010
(Filed April 13, 2006)

**RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES, THE UTILITY
REFORM NETWORK AND THE COMMUNITY ENVIRONMENTAL
COUNCIL TO PETITION FOR MODIFICATION OF DECISIONS 07-09-043
AND 08-01-042 BY PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN
CALIFORNIA EDISON COMPANY, SAN DIEGO GAS & ELECTRIC
COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY**

I. INTRODUCTION

Pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN) and the Community Environmental Council (CE Council) submit this response to the petition of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas)¹ to modify Decisions (D.) 07-09-043 and 08-01-042.

The petition for modification of D.07-07-043 and D.08-01-042 (Second PFM) asks the Commission to revise in the Utilities' favor the energy efficiency shareholder incentive mechanism adopted last September and modified in January of 2008. According to the Utilities, the requested changes are necessary in order to "receive their incentives in the timeframe contemplated by Decision 07-09-043."² However, the Second PFM seeks far more than mere procedural changes to achieve an incentive award

¹ DRA, TURN and CE Council's response to the petition for modification refers collectively to PG&E, SCE, SDG&E and SoCalGas as "Utilities."

² Second PFM, p. 1.

before the end of 2008. It seeks to reverse the provisions included in D.07-09-043 to protect ratepayers interests, and requests a return to the use of outdated metrics that would overstate the Utilities' energy savings, thereby ensuring that the Utilities will receive interim incentive payments of more than \$152 million, when adherence to the existing metrics would produce payments of a far lesser amount, and perhaps zero.

It bears repeating: adhering to the process laid out in D.07-09-043 and D.08-01-042 may result in the Utilities not receiving interim incentives. In the face of such a clear signal that their existing strategies are not leading to the kinds of achievements that might represent the "superior" performance that the shareholder incentive mechanism is intended to encourage, the utilities faced two choices. They could take this as a signal to revise their portfolios³ and refocus their efforts on measures that realize long lasting energy savings, or they could ask the Commission to change the standards so that the Utilities earn incentives even for lackluster performance. Unfortunately, the second PFM represents the Utilities opting for the latter.

The Commission should reject the Second PFM and allow the process adopted in D.07-09-043 and modified in D.08-01-042 to move forward. The staff of the Energy Division should continue the work necessary to calculate whether the Utilities are entitled to payments under the current incentive mechanism. At worst, this would allow the Utilities to receive incentives a few months after the anticipated schedule. If, on the other hand, the Energy Division determines the Utilities are not entitled to incentive payments using the methodology developed in Decisions 07-09-043 and 08-01-042, the Utilities will have suffered no significant harm by a few months delay in the process, but ratepayers will have saved up to \$152 million in incentives.

Thus, the Second PFM presents the Commission with a stark choice. It can either award the Utilities earnings in the amount intended in D.07-09-043, as modified by

³ Unfortunately, It Appears That The 2009-2011 Portfolios As Filed By The Utilities Are Simply "More Of The Same." See Tables 4-7 Attached To The Initial Protest Of The Division Of Ratepayer Advocates And The Utility Reform Network To The 2009-2011 Energy Efficiency Applications Of Southern
(continued on next page)

D.08-01-042, but make that award a few months later than originally intended, or it can award earnings before the end of 2008 and, in doing so, pay the Utilities more than is warranted. If the Commission intends to see if the adopted mechanism will work as envisioned, that is, in a manner that "protects ratepayers' financial investment, ensures that program savings are real and verified, and imposes penalties for substandard performance,"⁴ it must reject this second attempt to re-define the rules and instead see what happens under the adopted mechanism.

II. BACKGROUND

A. Decision 07-09-043, as modified by Decision 08-01-042 aligned shareholder and ratepayer interests by directing the interim claims be calculated using the best *ex ante* data available, including 2008 and 2009 database for energy efficiency resource (DEER)⁵ updates.

The Commission designed the risk/reward incentive mechanism to encourage the Utilities to “‘mine deeper’ for cost-effective energy savings than ever before in California’s history.”⁶ Decision 07-09-043 therefore adopted a risk/reward incentive mechanism that included a minimum performance standard (MPS) of 80-85% of the Commission’s energy savings goals. Requiring that Utilities meet the MPS in order to earn incentives ensures that the Utilities are rewarded only for significant progress toward the Commission’s goals of saving kW, kWh and therms.

In order to provide timely feedback to the Utilities for their performance in achieving energy efficiency savings, the risk/reward incentive mechanism included two interim incentive payouts based on energy savings achieved before the end of the three-

California Edison Company, Southern California Gas Company, San Diego Gas & Electric Company And Pacific Gas And Electric Company, Filed August 28, 2008 In A.08-07-021 Et Al.

⁴ D.07-09-043, p. 4.

⁵ DEER is a database developed jointly by the Commission and the California Energy Commission and funded by ratepayers. D.08-01.042, p. 16.

⁶ D.07-09-043, p. 11.

year program cycle.⁷ The Commission adopted an earnings claim and recovery schedule in which the two interim claims would be based on Energy Division's Verification Reports based on measure installations and costs, followed by a final "true-up" claim that would reflect Energy Division's *ex post* evaluation of energy savings, consistent with established EM&V protocols. The final true-up process would help ensure that energy efficiency produced "sizable GWh, MW, and Mtherm savings that resource planners can depend upon now and in the future"⁸ and that ratepayers paid incentives only for savings that were real and verified.

The ink was barely dry on D.07-09-043 before the Utilities filed their First PFM on October 31, 2007,⁹ which sought to restrict the final true-up process so that achievement of the MPS would be based on verification of measure installations, but using *ex ante* planning estimates of load impacts.¹⁰ The Utilities requested that if final verified information about energy savings showed that their savings were in the "dead band" between 65% and 85% of the Commission's adopted savings goals, that they should nevertheless retain interim incentives and continue earning at the established share rate of 9%. The Utilities claimed that their requested changes were necessary in order to provide sufficient certainty to investors that energy efficiency earnings could be booked "on a regular basis for accounting purposes in a manner that can be expected and anticipated by the investment community" so that energy efficiency resources would be "on par with generation resources in the minds of investors"¹¹

The Commission was persuaded that effectiveness of the incentive mechanism would be undermined if the Utilities could not book authorized earnings because of uncertainty associated with the possibility that the final true-up might require the return

⁷ See D.07-09-043, Conclusion of Law 7, p. 212.

⁸ D.07-09-043, p. 119.

⁹ Petition for Modification of Decision 07-09-043 By Pacific Gas And Electric Company, Southern California Edison Company, San Diego Gas & Electric Company And Southern California Gas Company, filed October 31, 2007 and amended November 7, 2007 (First PFM).

¹⁰ D.08-01-042, p. 4.

¹¹ D.08-01-042, p. 9, quoting First PFM at p.13.

of incentive payments.¹² It therefore granted the Utilities' First PFM and modified the incentive mechanism to limit the final true-up process so that

“if a utility meets the MPS for the interim claim based on verified measure installations and costs, and the *ex ante* savings assumptions, but falls within the 65 to 85% of energy savings goals as a result of the final *ex post* true-up of load impacts...the utility will continue to earn at the 9% shared savings rate, applied to the *ex post* PEB. In addition, as long as a utility continues to exceed the 65% of savings goal threshold for each individual metric on an *ex post* basis, it will not be required to pay back any interim incentives payments earned.”¹³

The Commission also incorporated changes designed to mitigate the risk of large swings in earnings and decrease the risk of overpayment, including “[u]pdating *ex ante* load impacts using the DEER database prior to payout of interim claims in 2008 and 2009”¹⁴ and requiring that 35% of the interim payment be held back.¹⁵ While restricting the final true-up decreased “the incentive for utility managers and staff to support the most accurate estimate of energy savings” and worked against the interest of ratepayers in “shar[ing] the net benefits with shareholders at precisely the adopted share rate,”¹⁶ use of updated DEER numbers to calculate interim claims and increasing the hold back offered some assurance that shareholders would not retain incentives for mediocre performance. As the Commission established in response to the first PFM, “A combination of updated *ex ante* values combined with a larger hold-back will substantially mitigate ratepayer risk brought upon by the changes we adopt to the true-up mechanism.”¹⁷ This is another point worth repeating: since the shareholder incentives for 2006-08 will be trued-up to *ex post* verification data in 2010, the Commission

¹² D.08-01-042, p. 10.

¹³ D.08-01-042, Ordering Paragraph 2, page 25.

¹⁴ D.08-01-042, Finding of Fact 15, p. 21.

¹⁵ D.08-01-042, Finding of Fact 13, p. 21

¹⁶ .08-01-042, Ordering Paragraph 2, page 27.

¹⁷ D.08-01-042, Finding of Fact 11, p. 20.

correctly established that uncertainty associated with overpayment will be reduced if the best available data (DEER updates) is used in interim claims.

B. Decision 07-09-043 recognized the possibility of delay in the calculation of interim incentive claims.

Prior to establishing the procedure for the payment of interim claims in D.07-09-043, the Commission considered parties' proposals and consulted with Energy Division in order to develop an interim claims schedule that would "link claims and payments to EM&V results, produce a stream of earnings during and at the end of the program to provide ongoing incentives to the utilities" while also recognizing resource limitations and competing priorities of staff time.¹⁸ The Commission's proposal¹⁹ provided for "two interim claims and a final true up claim, resulting in one claim per calendar year for the 2006-2008 and each subsequent program cycle, beginning in 2008. The interim claims were tied to the second and third Verification Reports, with the final claim tied to the Final Verification and True Up reports. The Commission adopted an Advice Letter process for the submittal of claims, with "approximate dates of those submittals"²⁰ reflected in the proposal but explicitly recognized that the actual due dates for claims depended on the issuance date of Energy Division's reports. While D.07-09-043 observed that Energy Division staff is "fully committed to meeting the deadlines" for producing reports, the Commission acknowledged that "no one can guarantee that unforeseen circumstances will never require delay to that schedule."²¹

The Commission considered but rejected the suggestion that the Utilities be allowed to submit estimated earnings claims and receive interim payments based on estimated savings in the event of a delay in the Energy Division Reports, observing "Ratepayers' interest are best served when the payout of earnings (or imposition of

¹⁸ D.07-09-043, p. 122.

¹⁹ The interims claim proposal was appended to D.07-09-043 as Attachment 6.

²⁰ D.07-09-043, p. 122 (emphasis added).

²¹ D.07-09-043, p. 122.

penalties occurs only after the installations, program costs and (for the final claim) load impacts have been verified by our staff and its contractors.”²²

C. The evaluation, measurement and verification process has encountered delays including slow responses to data requests.

DRA, TURN and CE Council are aware of delays to the EM&V process that provide the foundation for paying incentive claims. The EM&V process got off to a slow start because of contracting delays.²³ At least one subsequent delay apparently resulted from Utility delays in responding to staff data requests.²⁴ In addition, prior to the first PFM, the interim claims were based on *ex ante* data, and the Interim Verification Reports required less effort and scrutiny for Energy Division since there would be an unrestricted true-up. D.08-01-042’s response to the First PFM changed the interim claim process and required the use of 2008 DEER data for the first interim claim. Since D.08-01-042 made it extremely difficult to return interim overpayments to ratepayers, the First Verification Report now requires a more detailed analysis that will be significantly more contentious than it would otherwise have been. This placed a new burden on Energy Division which was not anticipated when the approximate due dates for Verification Report were established in D.07-09-043.

For these reasons, and probably for other reasons that are known only to Energy Division, its evaluation team, and the Utilities, the process for calculating interim Utility claims is behind schedule and it appears unlikely that the Utilities will be able to submit an earnings claim this year. Given the complexity of the incentive mechanism, and the fact that this is the first time it will be applied, a delay is not surprising.

²² D.07-09-043, p. 123.

²³ See Administrative Law Judge’s Ruling Revising Protocols for Process and Review of Post-2005 Evaluation, Measurement and Verification (EN&V) Activities, and Addressing Next Steps for Finalizing The Annual Reporting Requirement, January 2, 2007 (describing delays due to contracting issues).

²⁴ See e.g., July 8, 2008 letter from Paul Clanon to Kayode Kajopaiye granting the request for extension of time to issue 2007 energy efficiency audit reports pursuant to D.05-11-011 (extension requested because of delays in getting data request responses, as well as planned time-off of assigned staff.)

D. The Second PFM

In response to the delays in the process for calculating their interim incentives, the Utilities filed a Second PFM that seeks the following relief:

- Calculation of interim incentives payments based on reported measure savings and cost estimates in the event that Energy Division's EM&V reports are delayed;²⁵
- Removal of the requirement that interim earnings claims be based on updated DEER estimates;²⁶
- The opportunity for Commission review earnings-related issues raised in evaluation, measurement, and verification reports, outside of the current advice letter process,²⁷ and
- Immediate payment of interim incentives for 2006-2007 totaling \$152.7 million, net of 35% holdback (\$235 million before holdback).²⁸

The claimed need for the Second PFM is that the delay in the first Verification Report will prevent the Utilities from booking incentive earnings in a timely manner. As discussed below, the Utilities should know that they may not have earned an incentive payment for 2008, and that this is not simply an issue of timing. Thus, while the Second PFM is generally described as addressing timing concerns (particularly the need to achieve an interim award by the end of 2008), it also proposes several modifications that reflect the Utilities' ongoing efforts to reduce accountability for their performance, as well as erode protections for ratepayers.

²⁵ Second PFM, pp. 3-4.

²⁶ Second PFM, p. 4.

²⁷ Second PFM, p. 4.

²⁸ Second PFM, p. 6.

III. DISCUSSION

A. The Commission should reject the Second PFM because it fails to comply with Rule 16.4's requirements that factual matters be supported by citations to the record and that new facts be supported by an appropriate declaration or affidavit.

The Utilities claim to have filed the Second PFM to address delays in the process for calculating their interim incentives.²⁹ Rule 16.4(b) requires that in a petition for modification:

“[a]ny factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.”

The Second PFM contains significant allegations of fact regarding the amount of the Utilities' interim claims, the amount of energy savings achieved, the Utilities' lack of involvement in the delays of Energy Division's reports, and the impact of a delay in payment on the value of the incentive payments that are unsupported by citation to the record or a source that can be officially noticed, or to a declaration or affidavit.³⁰ It also seeks outcomes that are inconsistent with the factual record that led the Commission to reject similar requests in prior decisions, without any allegation of what has changed other than the passage of time. In general, the Second PFM lacks factual support to justify the significant relief that it requests, and should therefore be denied.

In the following sections, DRA, TURN and CE Council address each of the Utilities' assertions in more detail.

²⁹ Second PFM, pp. 2-3.

³⁰ See D.07-11-026, p. 4 (“Rule 16.4(b) states that a petition to modify can only consider factual allegations contained in the record or that may be officially noticed, unless accompanied by an appropriate declaration or affidavit. The Petition was not accompanied by any such declaration or affidavit, and therefore no new facts may be considered other than those in the record or those that may be officially notice.”)

1. The interim incentive claims for \$152 million are unverified and inadequately supported.

The Utilities claim that they are entitled to approximately \$152 million as

“appropriate payments for progress towards the Commission’s 3-year goals for energy efficiency.³¹ These amounts are supported by the per-unit cost and savings estimates filed by the utilities in their recent reports and applied to the 2006-2007 unit results.”³²

The Utilities seek over \$152 million in interim incentives payments, based on nothing more than assertions reflected in a table appended to the Second PFM, which refers to quarterly reports posted on the CPUC Energy Efficiency Groupware Application website. The information on the website was prepared by the Utilities and is unverified, and unsupported by affidavits or declarations.

To facilitate an evaluation of the Utilities’ financial claims, DRA issued a data request on August 21, 2008 requesting supporting workpapers and calculations. DRA, TURN and CE Council’s review of Utility data request responses is discussed in detail in Attachment A appended to this response. This analysis reveals not only flaws in the specific claims, it also illustrates why it is so important for interim claims to be based on the detailed Verification Report given the current restrictions in the true-up process.

Moreover, the Utilities’ assertion that they are entitled to interim incentives in the amount claimed is circular – the amounts sought would only be warranted if the Commission adopts the changes sought in the Second PFM. If the incentive claims are calculated using 2008 DEER updated data for 2006 and 2007, as the Commission directed in D.08-01-042, then the Utilities’ claimed savings will almost certainly be substantially lower, and may fall within the “deadband” that would neither entitle them to incentives nor subject them to penalties.³³ Only by using the outdated metrics that contradict the Commission’s direction that “the 2008 DEER update will apply to the 1st

³¹ The interim incentives claimed by each Utility are SCE: \$45,928,383; PG&E: \$77,114,757; SDG&E: 20,126,554 and SoCalGas: \$9,597,585.

³² Second PFM, p. 6.

³³ See Attachment B to this response.

claim”³⁴ can they come close to the savings that they claim. Nor are the Utilities forced to rely on this outdated and renounced approach; while the 2008 DEER updates are not yet final, they have been released in draft form and are currently available for comment.³⁵

The Commission should summarily reject the Utilities’ request for immediate payment of \$152 million of ratepayer money outside the process established in D.07-09-043 and D.08-01-042, based on their unsubstantiated and unverified requests. Approving these amounts would require the Commission to disavow all of the language in prior decisions and rulings that directed the use of the 2008 DEER update, and the Utilities have presented no evidence that such a “modification” of the decisions is warranted.

2. “During the 2006-2007 timeframe the customers of the California investor-owned utilities saved over 5.5 billion kWh and 75.8 therms.”³⁶

The Utilities’ claimed energy savings claims are unsupported by citation to the record or by affidavit or declaration. In fact, even without considering the impact of using 2008 DEER data, it appears that the energy savings were not uniformly calculated consistent with the direction given in D.08-01-042 to base claims on 4th Quarter 2007 Reports. While SCE has accurately followed this direction, the claims of PG&E and the Sempra Utilities are higher than they would be based upon their 4th Quarter 2007 Reports

3. “Because the delay is through no fault of the utilities, they should be authorized to collect the incentives they have earned....”³⁷

The Second PFM alleges that the Energy Division’s delay in producing the reports on the 2006-2007 utility portfolio results is “through no fault of the Utilities.”³⁸ DRA,

³⁴ D.08-01-042, Ordering Paragraph 3(a) p. 29.

³⁵ See <http://www.deeresources.com/deer2008exante/DEER2008Exante.html> The DEER update for 2009-2011 portfolio planning purposes were finalized by Energy Division May 30, 2008. The 2008 DEER update for 2006-2007 interim claims are an extension of the May update and therefore are expected to be very similar.

³⁶ Second PFM. p. 1.

³⁷ Second PFM, p. 10.

TURN and CE Council do not have access to the back and forth exchange of information between the Utilities, Energy Division, and Energy Division's EM&V contractors that would be necessary for the Energy Division to produce reports in a timely manner, but if the Utilities are indeed blameless for any of the delay in producing the reports,³⁹ they should have provided details of their timely compliance with Energy Division staff and contractor requests in appropriate affidavits or declarations in support of their request for the relief sought by the Second PFM.

Even if the Commission accepts the Utilities' assertion at face value on this point, it would not support granting the relief requested. The discussion in D.07-09-043 covers the prospect of delay caused by any "unforeseen circumstances." And given the decision's language generally supportive of the Energy division ("[o]ur staff is fully committed to meeting the deadlines established by our EM&V protocols for their reports") and the reference in the relevant Finding of Fact to "Energy Division's schedule for completing EM&V reports,"⁴⁰ the Commission clearly had in mind the prospect that delay might result if Energy Division ran into unforeseen problems. So even if the delay is entirely attributable to the staff not getting the work done as quickly as foreseen, D.07-09-043 directs that interim payments will not be based on the estimated savings presented in interim earnings claims.⁴¹

4. **"A delay in the ability to record earnings from outstanding performance towards Commission goals, particularly on the very first claim following adoption of the incentive mechanism, undermines the ability of the utilities to treat energy efficiency as a regular part of their business from both the**

³⁸ Second PFM, p. 10

³⁹ As mentioned in Section II C, Paul Clanon's July 8, 2008 letter granting a requested extension for the 2007 energy efficiency audit report suggested that this may not be the case.

⁴⁰ D.07-09-043, p. 125 and Finding of Fact 118.

⁴¹ D.07-09-043, p. 125.

**perspective of the utility and the business
community, and does not bode well for the future.”⁴²**

The Second PFM argues that absent the relief it requests, the Utilities will likely be unable to book earnings by the end of the year thereby “diminishing the investment community’s expectations for energy efficiency.”⁴³ Not surprisingly, the Utilities provided no information about what the investment community’s current expectations for timeliness of interim incentive payments might be. DRA, TURN and CE Council submit that the Commission may reasonably expect that the investment community bases such expectations in large part on what the agency’s decisions and rulings say. As noted above, D.07-09-043 could not have been clearer that there might be delay in the processing of the interim payments, and that such delay would not result in any backsliding on the commitment to “payout [interim] earnings . . . only after the installations [and] program costs have been verified by our staff and its contractors.”⁴⁴ And contrary to the Utilities conjecture that Wall Street would view delay in the first payment process as particularly troubling, DRA, CE Council and TURN submit that the first time through would likely be the strong candidate to face unanticipated delays.⁴⁵

The Utilities have failed to present any evidence that “Wall Street” is particularly concerned over the prospect that the first interim incentive payments under the new shareholder incentive mechanism are likely to be booked in 2009 rather than before the end of 2008. When the Commission issued D.07-09-043, the utilities’ first PFM indicated that Wall Street had concerns about the prospect that interim earnings awards might be effectively reduced after the *ex post* verification process was conducted. Such material is notably absent from the Second PFM. Instead, the Utilities present unsupported allegations that “timely recovery of any incentives” is of such importance to

⁴² Second PFM, p. 2.

⁴³ Second PFM, p. 11.

⁴⁴ D.07-09-043, p. 125.

⁴⁵ As noted in the discussion in Section ____ below, the Utilities seem to agree, based on what they have said to the investment community through their SEC filings.

“the investment community” that the language of D.07-09-043 should be modified to have the Commission reverse itself and permit interim payments based on nothing more than the utilities’ unsubstantiated savings estimates and earnings claims.⁴⁶ If this really were so important to “Wall Street” or “the investment community,” the Utilities would be in a position to point to something other than their own conjecture on this subject.

It may well be that Wall Street’s silence to date on the timing issue merely demonstrates that Wall Street takes the Commission at its word. The Commission’s discussion in D.07-09-043 is straightforward and unambiguous: the Commission would not authorize interim payments based on the unverified utility claims even in the event that the schedule slipped due to delays in producing the required verification reports. The Commission explicitly rejected the proposal to “authorize the utilities to submit earnings claims and pay out some portion of the estimated savings if those Energy Division reports are delayed in any way.” The logic supporting that rejection could not have been presented any more clearly:

There is no guarantee that Energy Division’s schedule for completing EM&V reports will never be delayed, based on unforeseen circumstances. However, ratepayer interests are best served if the payout of earnings (or imposition of penalties) occurs only after the installations, program costs and (for the final claim) load impacts have been verified by Commission staff and its contractors.⁴⁷

Thus the investment community was aware that there might be some delay, and that a reversion to payments based on the utilities claims was not going to be an option should such delay occur. This is not surprising; indeed, the Commission should assume that the investment community is aware of what it says in its decisions, and expects the agency to act in a manner reasonably consistent with what it has said in its decisions.

⁴⁶ PFM, p. 3 (proposed “modification” of D.07-09-043 to change “we do not adopt this suggestion” to “we adopt this suggestion.”)

⁴⁷ D.07-09-043, Finding of Fact 118; *see also* discussion at p. 125.

Had any member of the “investment community” harbored hopes that the Commission might see its way to approve unverified interim earnings should the verification reports be delayed, the utilities’ own statements to that community (as contained in their Securities Exchange Commission (SEC) filings) should have set them straight.

- In the SCE 10-K report dated February 27, 2008⁴⁸ the utility set out its interpretation of the recent Commission decisions. In the “Management’s Discussion and Analysis of Financial Condition and Results of Operations” section of the report, SCE made clear the linkage between the timing of the reports and the timing of any interim earnings: “Timing of progress payment claims is linked to the completion of CPUC reports. Delays in CPUC reports could cause delays in recognizing earnings for these claims.”
- The 10-Q reports filed May 2, 2008, by both SoCalGas and SDG&E for the first quarter of 2008 each included identical language: Immediately after the general observation, “Incentive awards are not included in the company’s earnings until CPUC approval of the award is received,” the utility presents a discussion specific to energy efficiency that ends with the statement, “A final CPUC decision is anticipated by early 2009.”⁴⁹
- It seems every document PG&E releases to the investment community, whether a formal filing at the SEC or materials used in presentations directly to investment firms, includes the cautionary language describing how actual results could differ materially from the utility’s current expectations, with one factor being “whether the Utility achieves the CPUC’s energy efficiency targets and recognizes any incentives the

⁴⁸ The 10-K is available at <http://ir.edisoninvestor.com/phoenix.zhtml?c=85474&p=irol-secSouthernCaliforniaEdison>.

⁴⁹ "The SDG&E 10-Q report may be found at <http://www.shareholder.com/common/Edgar/86521/86521-08-44/08-00.pdf>. The SoCalGas 10-Q report may be found at <http://www.shareholder.com/common/Edgar/92108/86521-08-33/08-00.pdf>."

Utility may earn in a timely manner.”⁵⁰] In the utility’s 10-Q report for the first quarter of 2008, it described the financial impact of the just adopted energy efficiency incentive mechanism as depending on “the level of energy efficiency savings actually achieved over the three-year program cycle, the amount of the savings attributable to the Utility’s energy efficiency programs, and when the applicable accounting standard for recognizing incentives or reimbursement obligations is met.”⁵¹ Later in the same report, PG&E identified the outcome of the Commission’s “revised assumptions for evaluating and measuring energy savings” as a factor that is expected to have “a significant impact on . . . the Utility’s results of operation and financial condition.”⁵² While PG&E did predict a decision before the end of 2008 on its claim for interim earnings in its May 2008 SEC report, it acknowledged uncertainty on this point in the subsequent 10-Q covering the second quarter of 2008: After describing an “alternative dispute process” that was then under consideration, the company stated, “It is uncertain whether this alternative dispute process will be successful or whether the CPUC will issue a decision by the end of 2008.”⁵³

In sum, the Utilities’ suggestions that a decision by year-end 2008 on their interim incentive claims is critical to meet their own or Wall Street’s expectations should be ignored, given the evidence that the Utilities and the investment community are already fully aware that the decision may not issue until some time in 2009.

The Second PFM also claims that in order to make energy efficiency a regular part of the Utilities’ business, the shareholder incentive mechanism must produce predictable, regular, and systematic earnings which can be reported to Wall Street.⁵⁴ The Second

⁵⁰ See PG&E 10-Q Report, May 6, 2008 (cited below), p. 36 [emphasis added].

⁵¹ PG&E 10-Q Report, May 6, 2008 (<http://www.shareholder.com/Common/Edgar/75488/75488-08-22/08-00.pdf>), p. 29.

⁵² *Id.*, p. 34.

⁵³ PG&E 10-Q Report, August 6, 2008 (<http://www.shareholder.com/Common/Edgar/75488/75488-08-35/08-00.pdf>), p. 52.

⁵⁴ Second PFM, p. 2.

PRM fails to support these claims with factual information regarding how and to what extent stock prices, dividends, and credit ratings would be affected by a delay of the first interim earnings claim, or any hypothetical delays in the future. ⁵⁵

The Commission should deny the relief requested in the Second PFM because it contains no specific facts supported by declarations or affidavits attesting to the impact that a delay in the payment of shareholder incentives might produce.

B. Calculating the interim claims using the 2008 DEER updated data substantially reduces the claims; in fact there is a reasonable possibility that the adjusted interim claims may be zero.

The following analysis demonstrates three key points:

1. A full verification of the Utility E3 Calculators from the 4th Quarter 2007 is needed to verify measure installations and program costs
2. LIEE and pre-2006 C&S savings need verification
3. The DEER 2008 update will significantly reduce the Utilities' first interim claim, potentially to zero

Table 1 shows the combined effect of DRA's adjustments to the electric IOUs' claimed savings to more reasonably reflect their 2006-2007 4th quarter reports, and

⁵⁵ The impact of any delay in the first interim earnings claim can be estimated using business valuation models. The discounted cash flow model (DCF) is one of the most fundamental models and is one of three currently used to determine the utility return on equity in the cost of capital proceeding. (D.07-12-049, p. 10) The DCF model could estimate the impact of the shareholder incentive mechanism based on the projected cash it generates in each future year, discounted to present value using the company's weighted cost of capital. Currently, PG&E has the highest cost of capital at 8.79%, so even in the extreme case that the delayed verification report shifted the booking of the 2008 interim claim and all subsequent shareholder incentive earnings by a full year, the impact would be to reduce its value by less than 9%. If, as seems far more likely, the delay is a matter of months, the impact would be some fraction of that amount.

It is a basic tenet of finance that rewards are inversely related to risk (also known as uncertainty) and that stable and predictable earnings are more valuable to investors. However, even variable cash-flows, such as those associated with aggressive performance-based incentives, have substantial value. The difference in value between these two scenarios is important to considering the relief sought in the Second PFM, but the Utilities have made no attempt to quantify the value of either. It is impossible for the Commission to accurately weight potential benefits suggested in the Second PFM against the harm it would inflict upon ratepayers and California's policy objectives without such analysis.

TURN's adjustments to the savings for the key measure group upstream manufacturer buy downs of CFLs⁵⁶ to reflect some of the Draft 2008 DEER update data.⁵⁷

The DRA and TURN adjustments reduce the IOUs claimed energy Gwh savings as a percentage of CPUC goals from 128% to 80%, and demand MW savings from 103% to 69%. The 69% of claimed savings relative to goals would put the three electric utilities in the RRIM dead band (> 80%).

Table 1: Combined Effect of DRA and TURN Adjustments to the IOUs' PFM 2006-2007 EE Interim Claim and Projected Effect Applying Impact of Limited Adjustments to the Balance of the IOUs' Portfolios		
	Gwh	MW
CPUC Goals	4843	1021
IOUs Claimed Savings	6216	1052
% of Goals	128%	103%
DRA Adjusted Claimed Savings	5342	927
% of Goals	110%	91%
DRA Adjustment Drop in % Points	-18	-12
TURN Adjustments to NTG, UES, and Storage Rate for the Upstream Manfr. CFL Buy Down Program	3861	702
% of Goals	80%	69%
TURN Adjustment Drop in % Points	-30	-22
DRA + TURN Adjustment Drop in % Points	-48	-34
Projected effect from a 75% drop in % points (-30 * 0.75 = -23; -22 * 0.75 = -17) for the balance of portfolio (52% upstream CFLs = balance 48%)	-23 57%	-27 52%

Table 1 also shows the effect of applying 75% of the TURN adjustment to the approximate 50% balance of the portfolio claimed savings as adjusted by DRA. This additional adjustment brings the IOUs claimed savings to 57% and 52% of the Commission's energy Gwh and demand MW goals, respectively. At this level of savings, the interim incentive claim would be zero^{58 59}

⁵⁶ CFLs constitute 52% PG&E, SCE, and SDG&E energy Gwh, and 42% demand MW claimed savings.

⁵⁷ TURN adjusts the IOUs' claimed savings to account for two DEER Update 2006 – 2007 values -- net-to-gross (NTG), Unit Energy Savings (UES), and an adjustment to the Storage Rates based on a variety of M&V studies. See Appendix B for a detailed explanation of these adjustments.

⁵⁸ Extending the TURN adjustment in this manner achieves an order of magnitude indicator of the extent to which the IOUs' interim claim is reasonable. Because the IOUs' claimed savings are about 75% lighting overall, applying the DEER update for 2006 and 2007 to the 25% balance of lighting measures

(continued on next page)

Even though DRA and TURN's rough analyses for purposes of this response focus on the Utilities' claimed savings, the Commission should not overlook the significant adjustments that will likely be made to the Utilities' claimed performance earnings basis (PEB). PEB is based on the lifecycle benefits of energy savings over the life (expressed as energy useful life or EUL) of the higher efficiency energy measures. The DEER update includes significant downward adjustments in the EULs for key measure groups including residential CFLs (from a current EUL of 9.4 years to a range of EULs of 7.9 to 3.9 years depending on CFL rated lamp light hours); refrigerator recycling (from EUL of 10 to 5 years); HVAC refrigerant charge and duct sealing (from EUL of 15 to 10 years), and Energy Star Room AC (from EUL of 15 to 9 years). The interrelationship of the DEER update reduction in EULs to the other measures means that if the EUL assumed for CFLs is high by 50%⁶⁰ and CFLs constitute approximately one-half of the IOUs

that are not upstream manufacturer buy downs of CFLs will likely produce similar reductions in claimed savings. Second, based on our initial review of the DEER updates, it appears that the claimed savings for other key measure group (such as appliance recycling, refrigerator gaskets and door locks, and HVAC measures) will overall be adjusted downward.

⁵⁹ The DEER updates to NTG will likely result in the largest percentage decrease in the IOUs' claimed savings. It is not surprising that the Utilities efforts have largely focused on eliminating the NTG adjustment in its entirety. These efforts are often couched in terms of the purported unfairness of requiring the IOUs to apply current NTG values that they had no input in establishing, especially where those values net out freeridership without also adding back in positive spillover market effects. While this is not the appropriate place to go into a detailed debate on NTG, DRA, TURN, and CE Council take this opportunity to point out two important facts: (1) the current NTG values were in fact derived by the IOUs, and (2) that the current NTG values include the effects of freeridership and both participant and nonparticipant spillover. CALMAC Workshop Report 9/25/2000 Proposed NTG Ratios for PY2001 Program Elements Attachment A: PG&E, SCE, SDG&E, SCG, September 22, 2000; and CALMAC Public Workshops on PY 2001 EE Programs: Day 1&2 September 12 and 13, 2000, Day 3&4 September 19 and 20, 2000.

The current definition of NTG does not allow for the inclusion of spillover effects, see R.06-04-010, Energy Efficiency Policy Manual EEPM v. 4.0 August 6, 2008. D. 07-10-032, page 126, states that the Commission is willing to entertain proposals for counting savings for the 2009-2011 program cycle from participant spillover only, to the extent program impact evaluation studies can identify quantifiable savings.

⁶⁰ The DEER update adjusts the current 9.4 EUL for residential CFLs to a range of EULs of 7.9 to 3.9 years depending on CFL rated lamp light hours and a "switching" (on/off) degradation factor. A simple average of the DEER adjusted EUL values of 6.6, 7.9, 3.9, and 5.3 years = 5.9 years; or 37% of the

(continued on next page)

claimed savings, then the IOUs' claimed PEB would be overstated by approximately 25%.

In summary, the initial analysis of the impact that the updated DEER data will likely have on the Utilities' interim earnings claim suggests the IOUs have painted stripes on a donkey in order to convince the Commission to save the zebra. A delay of a few months becomes academic if the interim incentive payments would be zero when properly calculated.

C. Granting the Second PFM would increase the risk that earnings awards will exceed the appropriate amounts based on actual demonstrated savings.

The Commission-adopted shareholder incentive mechanism for energy efficiency programs includes a "true-up" mechanism whose purpose is to assure that the ratepayer-funded earnings on energy efficiency programs would be calculated based upon the actual program achievements, rather than estimates of those achievements.

The true-up mechanism adopted in D.07-09-043 ensured that ratepayers would not be at risk of overpaying shareholder incentives over the course of a program cycle. If at the time of the final claim the actual level of portfolio achievements (as determined through use of *ex post* independent EM&V studies) is lower than previously calculated for the two interim claims (paid based on *ex ante* estimates), ratepayers would be made whole in the true-up adjustment, even if making them whole required the utilities to refund earnings already claimed.⁶¹

This unrestricted true-up mechanism lasted only a few months. When the Commission modified that decision in D.08-01-042, it acceded to the Utilities' request and created an exception to the general true-up rule: so long as the utility's final *ex post* results did not drop below 65% of the savings goal for any individual metric, the utility would not be required to repay previously "earned" incentives, even if those incentives

current 9.4 EUL.

⁶¹ D.07-09-043, p. 124.

had been calculated based on a far higher percentage of the savings goals (based on *ex ante* estimates).⁶² This modification to the original “true-up” provision created a new risk to ratepayers. Now an interim claim demonstrated to be higher than warranted through the EM&V results in the Final Performance Basis Report might not be refunded, meaning ratepayers would be paying incentives for achievements that, upon closer review, had not materialized.

The Second PFM would exacerbate this risk. Having convinced the Commission to scale back the true-up by adopting D.08-01-042, the Utilities here seek further revisions that put ratepayers at greater risk for paying undeserved incentives. If the Commission makes the requested modifications, ratepayers would be at risk that the interim earnings would be too high not only when compared to the Final Performance Basis Report, but would also exceed the level supported by the Energy Division’s Final Verification Report for that interim earnings period

The Second PFM seems to suggest that by leaving the interim claims “subject to the 35% holdback and *ex post* true up in the 3rd incentive claim,”⁶³ ratepayers would be no worse off than they are under D.08-01-042. This is incorrect. Interim earnings amounts paid based on the utilities’ claims are almost certain to be higher than the interim earnings amounts paid after a Final Verification Report is issued by the Energy Division due to the DEER update currently underway, the results of which are intended to be reflected in the authorized interim payments. The request to remove the DEER data true-up exacerbates the risk of overpayments.

The modifications already adopted in D.08-01-042 eliminated the possibility of refunds of amounts paid based on interim claims, “as long as the utility exceeded 65% of savings goals threshold for each individual metric on an *ex post* basis.”⁶⁴ DRA and TURN have previously referred to this as a lowering of the bar, since it allows the

⁶² D.08-01-042, p. 25.

⁶³ PFM, p. 3.

⁶⁴ D.08-01-042, pp. 26-27 (modifying Finding of Fact 110 of D.07-09-043).

Utilities to receive rewards for reaching only 65% of the adopted goals. The Second PFM could erroneously lower the bar to 65% based on inflated and unverified interim claims presented on an *ex ante* basis and, as a result, would likely increase the amounts paid as interim earnings that would not be subject to refund to ratepayers.⁶⁵

To illustrate, assume a utility's first interim claim for 2006-2007 (calculated using *ex ante* inputs unmodified by the DEER update) is based on achieving 150% of savings goals. Further assume that the Energy Division's Final Verification Report for 2006-2007 (calculated using DEER update figures for the *ex ante* inputs) determines that the program achieved 100% of savings goals. Finally, assume that the Final Performance Basis Report for the 2006-2008 period, relying on *ex post* measurement and verification, determines that the program achieved 65% of the savings goals. Under D.07-09-043, the cumulative amount of ratepayer-funded earnings would have been zero, based on the 65% figure from the Final Performance Basis Report and interim payments would have been returned to ratepayers. With the modifications adopted in D.08-01-042, the interim earnings amounts paid based on the *ex ante* Final Verification Report for 2006-2007 (100% of savings goals) would remain with the utility, even though only 65% of the savings goals were, in the end, achieved. The Second PFM would, under these assumptions, increase the interim earnings for 2006-2007 by basing them on claims of 150% of savings goals met, and have that increased amount remaining with the utility even if the Final Performance Basis Report determined only 65% of the goals had been met.

One way to permit the utilities to "book" interim earnings in 2008 without increasing the risk that ratepayers will pay "interim" earnings amounts that, in the end, are based on overestimated savings and achievements, would be for the Commission to

⁶⁵ Moreover, even if the Final Performance Report shows that the Utilities' performance falls in the penalty zone, the Utilities would not need to return the interim incentive payment immediately, but only "deduct[] from future earnings claims any over collections and associated penalties if the utilities fall into the penalty range on an *ex post* basis." D.08-01-042, p. 27 (modifying Finding of Fact 110 of D.07-09-043).

adopt a further true-up step.⁶⁶ Under D.07-09-043 and D.08-01-042, the true-up occurs during the last step of the earnings calculations, and compares the amounts paid for interim claims (based on the ED Final Verification Report) to the amount determined to be earned (in the Final Performance Basis Report). The Second PFM would create the need for a true-up comparing the amount sought in unverified interim claims (in situations where the Verification Report is delayed) and the amount determined to be appropriate for such interim claims (based on the ED Final Verification Report). DRA, TURN and CE Council do not recommend adding an interim true up as an additional burden on the process. Instead the Commission should leave the existing process and mechanism in place, with the first interim earnings claim perhaps not booked in 2008 as originally intended, but without pursuing further “solutions” that actually create further problems.

D. Granting the relief requested in the Second PFM would reward unreasonable planning assumptions and claims to Wall Street.

In D.08-01-042, the Commission identified a “fundamental problem” should the Utilities be unable to book authorized earnings under the incentive mechanism.⁶⁷ To the extent that investors value energy efficiency as part of the Utilities’ business, the utility focus on delivering successful energy programs may increase. But a fundamental premise of this logic is that the Utilities are providing the investment community with accurate assessments of the prospects for energy efficiency-derived earnings. DRA, TURN and CE Council submit that the Commission should be troubled by recent

⁶⁶ The absence of any discussion of the likelihood that the interim payments will be higher if their modifications are adopted raises doubt about the Utilities commitment to their earlier claims that their “request to eliminate some of the uncertainty of the interim payments is not intended for ...the utilities benefiting from undeserved earnings.” D.08-01-042, p. 11, citing First PFM, p. 17.

⁶⁷ D.08-01-042, pp. 10-11. DRA, TURN and CE Council believe that the concerns of Wall Street should be of lesser importance to the Commission’s development and implementation of an incentive mechanism, and at the very least should rank below ensuring that the added costs associated with the shareholder incentive mechanism produce an increase in realized energy savings, and enhance the credibility of energy programs in the eyes of CEC and resource planners, as compared to what would be achieved absent the incentive payments.

statements of PG&E and SCE to the investment community that appear to mischaracterize or downplay the risks associated with the shareholder incentive mechanism. If the Commission continues to base its decisions at least in part on the perceived needs of the investment community, and those needs are shaped by utility-provided information, there is a real risk that earnings that would not otherwise exist might be awarded to meet expectations shaped by the Utilities. Granting the relief requested in the Second PFM would reward this risky behavior.

1. PG&E and SCE have made optimistic statements about the shareholder incentive mechanism that appear to assume that the Commission will grant the relief requested in the Second PFM.

Since at least October 2, 2007, the highest reaches of utility management has known of the fact that updated studies and reports were likely to lead to reductions in claimed energy savings and any associated shareholder earnings. The letter to the Commission of that date, signed by the CEO of each utility to the Commission (included as Appendix C) stated:

the uncertainty created by the subjective *ex post* Net to Gross (NtG) adjustments poses an accounting problem for booking potential earnings.

According to the CEO letter, the solution to this purported problem was simple – use outdated assumptions to determine interim and final earnings awards:

NtG assumptions would remain constant throughout the program cycle and would be used for all earnings claims associated with that program cycle.

When the Commission wisely rejected this element of the Utilities' proposal when it issued D.08-01-042, the Utilities should have had no doubt that NtG adjustments would be reflected in the earnings verification process. The Utilities have also been aware since at least June 17, 2008 that the first verification report would likely be delayed, and that

the first interim claim would slip to 2009.⁶⁸ Nevertheless, SCE and PG&E appear to have made statements to investors that fail to reflect these risks.

a) SCE (EIX)

In the Second PFM, SCE claims it should receive \$45.9 million, which equates to approximately 2.5% of EIX projected 2008 earnings, or 9 cents per share. SCE has clearly disclosed that it has included 8 cents per share for its energy efficiency shareholder incentives in its earnings guidance for 2008, which is well within the projected earnings range of 3.61 to 4.01 per share.⁶⁹ EIX has also attempted to disclose the risks associated with ex-post true up in its recent presentations to investors, but this disclosure was not complete or fully accurate. Slide 14 of its September 2008 Business Update is dedicated to portraying potential income from the incentive mechanism and it includes a footnote that states:

[Earnings opportunity is] [b]ased upon September 20, 2007 and January 31, 2008 decisions released by the CPUC. There is no assurance of earnings. If CPUC approves, SCE estimates to record a progress payment in the range of \$41-\$49 million in 4Q08 for the first two years of the program cycle and expects to collect the payment in 2009 rates.⁷⁰

This statement is accurate as far as it goes, but it fails to mention that when this statement was made, a 2008 incentive earnings payment would only have been possible through a mediated settlement, or if the Commission grants the relief requested in the Second PFM, which was filed two full weeks before this statement was made. A second footnote on this page is also incomplete:

The \$146 million earnings opportunity (pre-tax) for 2006-2008 EE cycle. January 2008 modifications incorporate an update to the effective useful life of residential compact fluorescent lights. If the draft CPUC effective useful life

⁶⁸ Based on PG&E Notice of Ex Parte Communication in R.06-04-010, dated July 9, 2008.

⁶⁹ EIX September 2008 Business Update, August 29, 2008.

⁷⁰ *Id.*

study is adopted in its current form, SCE's earnings opportunity would decrease to approximately \$124 million.

This statement fails to mention that CPUC-directed program evaluations are being performed for measures beyond CFLs, and that all savings assumptions (e.g. measures installed, unit savings, NTG, etc.) and program costs will also be updated in the ex post true-up. Based on the analysis in section III.B, SCE's earning opportunity could decrease to much lower than the \$124 million stated.

b) PG&E (PCG)

While Edison's disclosures could be described as incomplete, PG&E's management made statements during an August 6, 2008 investor conference call that appear even more problematic.⁷¹ In the question and answer session, an analyst from Merrill Lynch asked for clarification regarding an earlier statement that shareholder incentives may be delayed. Christopher Johns, Senior Vice President, CFO and Treasurer, responded "we anticipate getting it in...by the end of the year." PG&E VP of Products and Services Bradley Whitcomb added that they were engaging in an ADR process "[t]hat will be the kick off building this week, which is another opportunity to ensure that we are able to get the numbers to settle down by early September, so we can submit our filings on schedule and get the earnings this year." The analyst asked if delayed earnings would be booked in 2009, to which Mr. Johns replied "If for some reason the process got delayed into the following year, then those earnings would be booked at that time." Finally, the Merrill Lynch analyst asked if there were any "notable substantive issues that the people are disagreeing about here that we should be aware of?", and Mr. Whitcomb answered "I don't believe there are" and "I really think it's more of a logistical issue than fundamental disagreement at this point."

Mr. Whitcomb was an active participant in a meeting on July 16, 2008 in which DRA and TURN participated. Anyone attending the meeting left understanding that

⁷¹ The transcript of PG&E's August 6, 2008 investor conference call is available at <http://seekingalpha.com/article/89590-pg-e-corp-q2-2008-call-transcript>.

there are significant differences between ratepayer representatives and the Utilities regarding the first incentive claim, differences that go far beyond timing or mere matters of logistics. The disagreement went to the issue of whether the Utilities were entitled to an incentive payment in any amount, based on the use of independently verified and updated energy savings.

PG&E's statements to investors were therefore problematic because:

1. The utility's representatives knew a claim could not be booked in 2008 without a mediated settlement or a change in the energy efficiency policy rules.
2. The reason the first interim claim is delayed because Energy Division's verification report is delayed. Since this report will likely indicate the Utilities savings claims will be reduced, it is inaccurate to state that the only issue is whether PG&E's claimed \$30-60 million in SIM earnings will "book" in 2008 or 2009.
3. The debate over the first interim claim is not merely a logistical issue of timing, it is a fundamental disagreement about the importance of independent verification, and whether the Utilities are eligible for any earnings based on 2006-2007 savings.

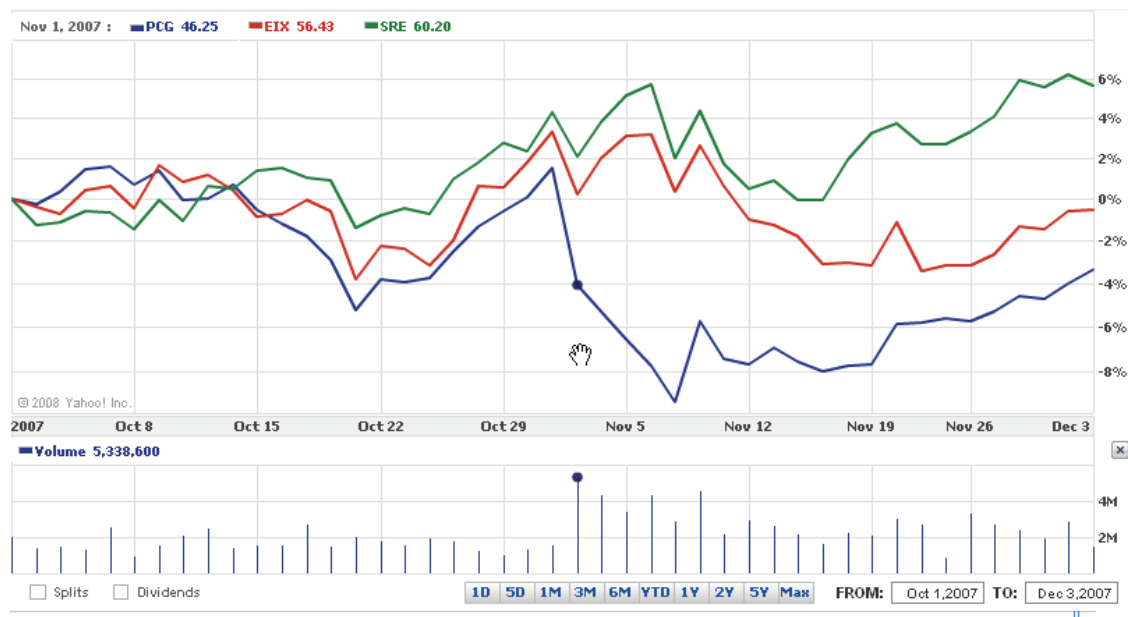
A review of PG&E's financial statements provides some insight into why it is seeking the relief requested in the Second PFM: PG&E's claim in the Second PFM for \$77.1 million represents approximately 5% of its projected earnings for 2008. The importance to PG&E of earnings from the shareholder incentive mechanism is apparent when that figure is compared to its projected annual earnings growth of 8%. If the utility fails to book amounts on par with PG&E's projections, a majority of the earning growth it promised investors will not be realized.

An example of how the market responds to deviations from expected earnings was provided by PG&E last year. In the 2nd Quarter investor call (August 7, 2007), Christopher Johns stated that "something else that's not included in the 8% [projected earnings growth rate] is any of the incentives that would come of the energy efficiency proceedings" and that if any such earnings were realized "that could potential allow us to earn at a better rate than that [8%]". He abandoned this position in the 3rd Quarter call (November 1, 2007) by saying "it would not be advisable at this time to consider potential earnings from energy efficiency incentives as incremental to our 8% target

growth rate.” Utility analysts had apparently already assumed the shareholder incentive mechanism-produced earnings were incremental, based on the 2nd Quarter statement, so they grilled PG&E’s officers in the Q&A session. The officers were not able to give a satisfactory answer regarding what PG&E’s growth rate would be without SIM earnings and investors reacted. One Wall Street firm responded:

“Specifically it was stated that incentive earnings, such as for energy efficiency, might actually be needed to help reach 8% growth. Until now, such incentives were portrayed as potential upsides and the shift in tone clearly takes some shine off the [earnings growth] story.”⁷²

Between October 31 and November 7, 2007, PG&E Stock dropped nearly 12% while EIX and SRE held roughly constant.



. Chart from Yahoo Finance on September 11, 2008

PG&E may argue that this justifies removal of any *ex post* true up, but the correct interpretation should be that PG&E management needs to more accurately describe the

⁷² Merrill Lynch report on PG&E Corp. dated November 2, 2007, referring to comments on PG&E’s 3rd quarter conference call on November 1, 2007.

operation of the incentive mechanism (and more realistically assess the risks thereunder and the status of proposed modifications to the mechanism) to investors and others in the financial community.

c) Sempra (SRE)

Sempra Energy, the parent of SDG&E and SoCalGas, has made no explicit predictions that it will book earnings from the shareholder incentive mechanism in 2008. Instead, they have educated investors about the mechanism and its potential to generate earnings throughout the 2006-2008 program cycle. For example, a March 27, 2008 investor conference presentation illustrated the potential for risks and penalties of the mechanism and its quarterly conference call presentations do not mention SIM.⁷³ Sempra's conservative treatment of its prospects for earnings under the adopted mechanism might stem from the fact that the Sempra Utilities generate only about half of Sempra Energy's corporate income. The incentives claimed in this PFM constitute approximately 2% of Sempra Energy's projected 2008 earnings per share (EPS), and they fall well within the range of earnings guidance, of \$3.80 to \$4.00 per share⁷⁴. The Sempra Energy share price may rise if SDG&E or SoCalGas book earnings from the shareholder incentive mechanisms in any year, but appears unlikely that share prices will be adversely impacted if earnings such earnings are not realized in a given year.⁷⁵

E. Granting the relief requested in the PFM is not necessary to achieve supply side equivalence.

The Commission should also reject the Utilities' arguments to the extent they rely on the notion that other utility plant investments achieve greater "regularity of earnings."⁷⁶ Earnings from utility investment in generation, transmission or distribution plant are generally tied to the dollars spent on the investment, and rarely entail the effort

⁷³ All Sempra presentations available at <http://www.shareholder.com/sre/medialist.cfm>

⁷⁴ Earnings guidance from Sempra's 2nd Quarter 2008 conference call presentation.

⁷⁶ Second PFM, p. 3.

to measure and verify the benefits produced by that investment. Furthermore, earnings from new investments, such as major generation or transmission plant projects, can often materialize later than expected due to any number of reasons including delays in the pace of utility completion of the effort or in the Commission's review process. The Commission must not make any change to achieve "regularity of earnings" that would hold demand side earnings to a standard that supply side earnings attain only in theory, or only because the supply side earnings are largely free of the evaluation, measurement and evaluation process that is a necessary and critical component of the demand side earnings.

In sum, the timing issues raised in the utilities' Second PFM do not warrant any further change to the shareholder incentive mechanism adopted in D.07-09-043 as modified by D.08-01-042. The Commission has already given the Utilities everything they could reasonably hope for with regard to shareholder incentives. It should look askance at the current complaint that these incentives may not materialize as rapidly as the utilities would prefer.

F. Granting the relief requested in the Second PFM would violate long-standing policy rules.

1. Granting the relief requested in the Second PFM runs counter to long-standing PUC policy regarding *ex post* verification

The Second PFM asks for unverified incentive payments whenever delays in the verification reports "impact one of the earnings claims".⁷⁷ This vague request for relief, when coupled with the previously adopted relief from returning interim overpayments, results in a short-circuiting of the Commission's longstanding policy of and commitment to ex post true-up. Specifically, the Second PFM claims the Utilities deserve \$235 million for 2006-07, and request a payment of \$152 million based on their unverified

⁷⁷ Second PFM, p.4.

impact and PEB claims.⁷⁸ If the 2nd verification report shows that the incentive for the entire PY2006-08, based on verified measure installs, costs and 2009 DEER data, is only \$100 million, ratepayers would be out \$52 million with no potential for refund.⁷⁹

The Commission has exercised its charter to protect ratepayer interests by requiring that EE incentives be based on realized savings, as verified by independent evaluators. This is not new policy: incentive mechanisms from previous EE programs from 1995-97 were subject to such a true-up. The agency clearly affirmed this position in April 2005, even before the 2006-08 EE portfolios were submitted to the Commission:

We agree with Joint Parties [NRDC, ORA (DRA), TURN] that a general policy of adjusting the performance basis based on the results of load impact studies is necessary to ensure quality control and to maintain the credibility of the energy efficiency programs.⁸⁰

In developing this policy position, the Commission embraced Joint Parties' view:

Even with the success of energy efficiency programs in the past, some will question whether energy efficiency is a reliable resource that provides the claimed energy savings; tying compensation to ex post evaluations provides hard after-the-fact evidence of the savings achieved, holds the administrators accountable for the results, and will **maintain the credibility of the programs**. Relying on load impact studies for the performance basis also helps to ensure accurate forecasting. If an existing ex ante [Database for Energy Efficiency Resources] DEER value is known to be too high, the administrators should use the value they expect to be more accurate, since they know they will be compensated based on ex post evaluation, until the DEER value is corrected. This is essential since the **resource planners will be relying on these savings as a resource** and the forecasts should be based on the best available information.⁸¹

⁷⁸ \$152 is less the 35% holdback.

⁷⁹ The only potential for refund is if the final evaluation shows the Utilities should be subject to penalties, as described above.

⁸⁰ D.05-04-051, p.50.

⁸¹ D.05-04-051, pp. 50-51 (emphasis added).

The Commission has reaffirmed this element of D.05-04-051 numerous times since then, as was summarized in detail in the October 5, 2007 Assigned Commissioner's Ruling (ACR) Addressing Net-To-Gross Ratio True-Up and Methodology for Lighting Programs In the 2006-2008 Energy Efficiency Portfolios.⁸² The relief requested in the Second PFM would change the rules after the programs were initiated, moving the goal post closer to the players.

2. Granting the relief requested in the second PFM would reward inaccuracy and inflation of *ex ante* data.

By further undermining the commitment to true-up, as described above, the Second PFM opens the door for gaming and the use of inaccurate data:

“an approach that fails to true-up savings and net benefit accomplishments based on the final load impact studies creates a perverse incentive for utility managers to promote exaggerated savings assumptions during the planning process. This is because the utility knows they can get progress [interim] payments based on these inflated estimates that are not returnable when the final true-up reveals lower impacts.”⁸³

The Utilities claim they used the data required by the Commission in their portfolio filings for 2006-08, and that they continue to use accurate data in their regular progress reports, but there are numerous clues that this is not correct.⁸⁴

⁸² October 5, 2007 ACR in R.06-04-010, Attachment A.

⁸³ D.07-09-043, p.123; also Finding of Fact 109.

⁸⁴ The E3 calculators embody thousands of inputs and calculations, and the Utilities currently have ultimate control over those calculators. There has been substantial contention regarding basic issues concerning data quality assurance and control. These basic data quality assurance and control issues were discussed during numerous workshops and meeting in the various dockets pertaining to the IOUs 2006-2008 portfolio design and implementation, Joint Staff development of the EM&V protocols, and the 2006 Avoided Cost / E3 Calculator Update process going back to 2005. Little if any progress was ever made on these topics. With control over the E3 calculators, the Utilities are in a position to “pump up” the savings and net benefits. These matters of quality assurance and control of the underlying data and inputs in particular, as well as the general need for correct and consistent execution of the E3 calculator algorithms, are either the bedrock or quicksand on which California's “EE as the first loading order resource” resides. While not strictly a question presented by the Utilities Second PFM, DRA, TURN and
(continued on next page)

3. The relief requested in the Second PFM should be considered in the context of the Utilities' requests in other proceedings.

DRA, TURN, and CE Council's response to this point focused on the specific details of the Second PFM, but it would be erroneous to consider the Utilities' requested relief in isolation when statements in other proceedings signal the long-term aspirations of the Utilities with regard to the *ex post* true-up. The most important are the Joint Utility Policy Recommendations included with the recently submitted portfolios for 2009-11 energy efficiency programs, in which they request that "evaluation studies of energy savings (*ex post*) should inform future planning efforts and not be used to reassess prior program performance."⁸⁵ The 2009-11 program applications presume that the Commission will reverse its long-standing policies for protecting ratepayers by eliminating *ex post* true-up. This would be dangerous and ill-advised, as discussed in DRA and TURN's August 28, 2008 joint protest to Application 08-07-021 et al. Based on the statements in those applications, the Commission should not be surprised if the Utilities file a third or forth PFM as part of an ongoing quest to eviscerate ratepayer protections that ensure claimed energy savings are real rather than the product of accounting errors.

G. Permitting parties to raise issues related to verification and evaluation reports to the Commission, even in limited cases, would undermine the process established in D.07-09-043.

The Second PFM asks the Commission to revise the Advice Letter process established in D.07-09-043 to allow "parties to raise issues to the Commission in limited cases where [the] process is not sufficient to resolve major issues among the parties."⁸⁶ While under normal circumstances permitting parties additional opportunities to bring

CE Council strongly recommend that the Commission choose the bedrock option and, to that end, transfer of control of the E3 calculators to the Energy Division.

⁸⁵ A.08-07-021, p. 17, filed July 21, 2008.

⁸⁶ Second PFM, p. 5.

matters to the Commission's attention for resolution might seem unobjectionable, here the addition of a vague and poorly defined right to "raise issues to the Commission" is likely to undermine the process in a detrimental way. Letting parties raise issues to the Commission, rather than the Commission accepting Energy Division's determination on those issues, can only serve to make the existing process more protracted. Yet the petition for modification is in all other ways premised on the need to address problems resulting from the process being more protracted than expected. Rarely do the Utilities so clearly ask to have it both ways in a single pleading. The Commission should decline the request.

Furthermore, the past experience with a process akin to what the Utilities now request was not a positive one. In the past, the Utilities brought earnings-related "major issues" to the Commission's attention in their Annual Earnings Assessment applications. In D.07-09-043, the Commission noted the problems with the past process, and instead proposed procedures better suited to addressing technical issues related to EM&V and payment of incentive claims. Far from contesting any of these points, the Utilities seem to agree with them, as the Second PFM criticizes the delays associated with the AEAP process.⁸⁷ The Commission should reject the request to revise the Advice Letter process before it has even had a chance to be fully implemented, and allow the procedures to move forward as intended.

H. The Commission should take this opportunity to discourage future utility requests to deconstruct the existing shareholder incentive mechanism.

The existing shareholder incentive mechanism and the detailed earnings claim and recovery process was adopted approximately a year ago. That mechanism and process are the product of a series of workshops and formal filings that extended over a year. Yet after D.07-09-043 issued, the Utilities almost immediately called for substantial modifications that sought to sacrifice ratepayer protections in favor of creating greater

⁸⁷ Second PFM, p. 9, fn 4.

“certainty” for the investment community. In D.08-01-042, the Commission made modifications intended to achieve sufficient “certainty,” but those modifications were coupled with provisions to protect the integrity of energy efficiency as a resource, while ensuring that ratepayers paid incentives only for savings that were real and verified. Now the Utilities are back, again calling for the repeal of those protections.

Whatever the outcome the Commission adopts here, the Utilities past pattern makes clear that there will likely be a Third PFM at some point in the not-too-distant future if they are left to their own devices.

Therefore the Commission should make very clear to the Utilities that the ongoing campaign to reshape the shareholder earnings mechanism more to their liking (whether or not cloaked in claims of “Wall Street’s” needs or desires) needs to come to an immediate halt. Rather than continuing to reexamine the shareholder incentive mechanism every time the Utilities perceive a problem or identify a way to make it “better” from their perspective, the Commission should reject the Second PFM in terms that leave no doubt that it wishes to focus its attention, and the attention of parties on addressing the unfinished work that remains, including the proposed 2009-2011 portfolios, the Utilities’ pending request for 2009 bridge funding, and developing long-term strategies to enhance energy efficiency as a resource, rather than repeatedly returning to the already-adopted earnings claim and recovery process.⁸⁸

IV. CONCLUSION

The Second PFM focuses on the alleged need to get the initial incentive payment approved by the end of 2008. Unfortunately, it fails to acknowledge that the Utilities' demand for "timely" payment would also result in paying them more than they deserve. Adjusting the Utilities' reported savings to reflect the 2008 DEER updated data in just a few key areas of their energy efficiency portfolios demonstrates that the actual savings

⁸⁸ In fact, the Commission will be considering limited modifications to the shareholder incentive mechanism later this year as it relates to the revised goals adopted in D.08-08-047 and will revisit the shareholder incentive mechanism when the Energy Division completes its report in 2011. D07-09-043, p. 13; 170; Ordering Paragraph 16, p.226

amounts that would drive the earnings calculation under the mechanism as it currently stands will produce interim earnings that are dramatically lower than the amounts the Utilities have claimed, with a substantial likelihood that the earnings should be zero. DRA, TURN and CE Council respectfully request that the Commission deny the Second PFM.

DRA, TURN, and CE Council also request that the Commission, if it deems some or all of the second PFM requests to have merit, consider those requests in parallel with the broader process for revising the Risk/Reward Incentive Mechanism that the Commission has indicated it will take up this fall or early in 2009. Modifying the current mechanism, as requested by the second PFM, warrants a broader analysis of the merits of all aspects of the mechanism, as will be discussed in the next phase of the initial Energy Efficiency Proceeding.

Respectfully submitted,

/s/ DIANA L. LEE

Diana L. Lee
Staff Counsel

Attorney for the Division of Ratepayer
Advocates

California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
dil@cpuc.ca.gov
Phone: (415) 703-4342
Fax: (415) 703-4432

Robert Finkelstein, Legal Director
THE UTILITY REFORM NETWORK
711 Van Ness Avenue, Suite 350
San Francisco, CA 94102
Phone: (415) 929-8876
Fax: (415) 929-1132
E-mail: bfinkelstein@turn.org

September 15, 2008

Tamlyn Hunt
The Community Environmental Council
26 W. Anapamu, 2nd Floor
Santa Barbara, CA
(805) 963-0583, ext. 122

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES, THE TUILITY REFORM NETWORK AND THE COMMUNITY ENVIRONMENTAL COUNSEL TO PETITION FOR MODIFICATION OF DECISIONS 07-09-042 AND 08-01-042 BY PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY** in **R.06-04-010** by using the following service:

☒ **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

☐ **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on September 15, 2008 at San Francisco, California.

NOTICE

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

SERVICE LIST

R.06-04-010

sesco@optonline.net
mmoore@newportpartnersllc.com
keith.mccrea@sablax.com
mharrigan@ase.org
jimross@r-c-s-inc.com
gtropsa@ice-energy.com
ckmitchell1@sbcglobal.net
spatrick@sempra.com
dmahmud@mwdh2o.com
michele@sbesc.com
pwuebben@aqmd.gov
larry.cope@sce.com
cfpena@sempra.com
liddell@energyattorney.com
jennifer.porter@energycenter.org
sephra.ninow@energycenter.org
mlewis@ctg-net.com
judi.schweitzer@post.harvard.edu
thunt@cecmail.org
wilkinson@es.ucsb.edu
pcanessa@charter.net
JeffreyH@hellermanus.com
RemiT@hellermanus.com
hayley@turn.org
jeanne.sole@sfgov.org
marcel@turn.org
dil@cpuc.ca.gov
stephen.morrison@sfgov.org
achang@nrdc.org
rsa@a-klaw.com
cjin3@pge.com
saw0@pge.com
jsqueri@gmssr.com
edwardoneill@dwt.com
ssmyers@att.net
jak@gepllc.com
jerry@abag.ca.gov
rknight@bki.com
jody_london_consulting@earthlink.net
hoerner@redefiningprogress.org
swentworth@oaklandnet.com
john@proctoreng.com
pmschwartz@sbcglobal.net
tim@marinemt.org
wem@igc.org
hryan@smallbusinesscalifornia.org
bill@jbsenergy.com
jweil@aglet.org

elee@davisenergy.com
mike@calcerts.com
tcrooks@mcr-group.com
glw@eslawfirm.com
chris@cuwcc.org
mboccardo@dolphingroup.org
lmh@eslawfirm.com
ljimene@smud.org
cscruton@energy.state.ca.us
kmills@cbbf.com
rob@clfp.com
bburt@macnexus.org
jparks@smud.org
js@clearedgepower.com
tom@ucons.com
higgins@newbuildings.org
gandhi.nikhil@verizon.net
donaldgilligan@comcast.net
ameliag@ensave.com
Clark.Pierce@us.landisgyr.com
eosann@starpower.net
jthorneamann@aceee.org
snadel@aceee.org
CCole@currentgroup.com
staples@staplesmarketing.com
mking@staplesmarketing.com
nphall@tecmarket.net
skihm@ecw.org
gstaples@mendotagroup.net
annette.beitel@gmail.com
jmeyers@naima.org
pjacobs@buildingmetrics.biz
kcooney@summitblue.com
mmcguire@summitblue.com
bobbi.sterrett@swgas.com
emello@sppc.com
David.Pettijohn@ladwp.com
tblair@mwdh2o.com
bmcdonnell@mwdh2o.com
kwong@semprautilities.com
nhernandez@isd.co.la.ca.us
david@nemtzw.com
susan.munves@smgov.net
marilyn@sbesc.com
brad.bergman@intergycorp.com
southlandreports@earthlink.net
cdamore@icfi.com
dpape@icfi.com

sculbertson@icfi.com
thamilton@icfi.com
Case.Admin@sce.com
don.arambula@sce.com
Jennifer.Shigekawa@sce.com
Laura.Genao@sce.com
Stacie.Schaffer@sce.com
tory.weber@sce.com
dwood8@cox.net
rsperberg@onsitenergy.com
jlaun@apogee.net
ashley.watkins@energycenter.org
centralfiles@semprautilities.com
irene.stillings@energycenter.org
jyamagata@semprautilities.com
robert.gilleskie@energycenter.org
bob.ramirez@itron.com
rachel.harcharik@itron.com
david.gordon@efm-solutions.com
kjk@kjkammerer.com
cneedham@edisonmission.com
TFlanigan@EcoMotion.us
sthompson@ci.irvine.ca.us
sbarata@opiniondynamics.com
dale@betterbuildings.com
mlong@anaheim.net
cheryl.collart@ventura.org
Jeff.Hirsch@DOE2.com
hhuerta@rhainc.com
atencate@rsgroup.com
lcasentini@rsgroup.com
jcelona@sbcglobal.net
ann.kelly@sfgov.org
abesa@semprautilities.com
wblattner@semprautilities.com
pvillegas@semprautilities.com
norman.furuta@navy.mil
bcarver@nrdc.org
eric@ethree.com
kgrenfell@nrdc.org
lettenson@nrdc.org
andrew_meiman@newcomb.cc
andy.goett@paconsulting.com
ann_mccormick@newcomb.cc
cbasket@enernoc.com
efm2@pge.com
j5b2@pge.com
yxg4@pge.com
John_Newcomb@newcomb.cc
lhj2@pge.com

matt_sullivan@newcomb.cc
rbm4@pge.com
slda@pge.com
SRRd@pge.com
tmfry@nexant.com
WKR4@pge.com
rekl@pge.com
reinhard@mofo.com
steven@moss.net
epoole@adplaw.com
CEM@newsdata.com
Cassandra.sweet@dowjones.com
jwiedman@goodinmacbride.com
sbuchwalter@icfi.com
policy.solutions@comcast.net
jimflanagan4@mac.com
lisa_weinzimer@platts.com
sellis@fypower.org
wmcguire@fypower.org
bkc7@pge.com
jkz1@pge.com
wcm2@pge.com
regrelcuccases@pge.com
hxag@pge.com
rafi@pge.com
epetrill@epri.com
andrew.wood3@honeywell.com
Mary@EquipoiseConsulting.com
tlmurray@earthlink.net
ghamilton@gepllc.com
mistib@comcast.net
ashish.goel@intergycorp.com
grant.cooke@intergycorp.com
jay.bhalla@intergycorp.com
rfox@intergycorp.com
Patricia.R.Thompson@gmail.com
sbeserra@sbcglobal.net
wbooth@booth-law.com
pthompson@summitblue.com
michael.cheng@paconsulting.com
cadickerson@cadconsulting.biz
alex.kang@itron.com
Ann.Peterson@itron.com
fred.coito@kema.com
jennifer.fagan@itron.com
jtiffany@ase.org
john.cavalli@itron.com
kathleen.gaffney@kema.com
karl.brown@ucop.edu
mrw@mrwassoc.com

Bruce@BuildItGreen.org
p.miller@earthlink.net
awatson@quest-world.com
drebello@quest-world.com
jesser@greenlining.org
robertg@greenlining.org
stevek@kromer.com
craigtyler@comcast.net
elvine@lbl.gov
mwbeck@lbl.gov
darmanino@co.marin.ca.us
jcluboff@lmi.net
rita@ritanortonconsulting.com
cpechman@powereconomics.com
gthomas@ecoact.org
emahlon@ecoact.org
sobrien@mccarthy.com
barry.hooper@sanjoseca.gov
mary.tucker@sanjoseca.gov
NancyKRod@conSol.ws
Rob@ConSol.ws
bobho@mid.org
joyw@mid.org
gsenergy@sonoma-county.org
brbarkovich@earthlink.net
tconlon@geopraxis.com
bmfinklor@ucdavis.edu
rmccann@umich.edu
mbhunt@ucdavis.edu
dmahone@h-m-g.com
kenneth.swain@navigantconsulting.com
kdusel@navigantconsulting.com
lpark@navigantconsulting.com
david.reynolds@ncpa.com
scott.tomashefsky@ncpa.com
jjg@eslawfirm.com
asloan@rs-e.com
mclaughlin@braunlegal.com
Corlando@energy.state.ca.us
dgeis@dolphingroup.org
ehebert@energy.state.ca.us
jcastleberry@rs-e.com
wynne@braunlegal.com
klewis@energy.state.ca.us
katie@cuwcc.org
mharcos@rs-e.com
rsapudar@energy.state.ca.us
bernardo@braunlegal.com
pstoner@lgc.org
wwester@smud.org

vwood@smud.org
sjameslehtonen@yahoo.com
rmowris@earthlink.net
hgilpeach@scanamerica.net
paul.notti@honeywell.com
brian.hedman@quantecllc.com
Sami.Khawaja@quantecllc.com
janep@researchintoaction.com
samsirkin@cs.com
mbaker@sbwconsulting.com
jholmes@emi1.com
jbazemore@emi1.com
john@enactenergy.com
ppl@cpuc.ca.gov
atr@cpuc.ca.gov
aeo@cpuc.ca.gov
cf1@cpuc.ca.gov
cxc@cpuc.ca.gov
tam@cpuc.ca.gov
crv@cpuc.ca.gov
dmg@cpuc.ca.gov
dhn@cpuc.ca.gov
trh@cpuc.ca.gov
flc@cpuc.ca.gov
hcf@cpuc.ca.gov
jbf@cpuc.ca.gov
jl2@cpuc.ca.gov
cln@cpuc.ca.gov
jst@cpuc.ca.gov
jws@cpuc.ca.gov
jci@cpuc.ca.gov
kwz@cpuc.ca.gov
keh@cpuc.ca.gov
lp1@cpuc.ca.gov
mwt@cpuc.ca.gov
mmw@cpuc.ca.gov
mkh@cpuc.ca.gov
nfw@cpuc.ca.gov
pw1@cpuc.ca.gov
srt@cpuc.ca.gov
snr@cpuc.ca.gov
smw@cpuc.ca.gov
tcr@cpuc.ca.gov
zap@cpuc.ca.gov
ys2@cpuc.ca.gov
ztc@cpuc.ca.gov
awp@cpuc.ca.gov
bvalenci@energy.state.ca.us
crogers@energy.state.ca.us
dbeck@energy.state.ca.us

dk@cpuc.ca.gov

agarcia@energy.state.ca.us

msherida@energy.state.ca.us

sbender@energy.state.ca.us